

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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HECTOR MATOS, JR.,

Plaintiff,

vs

9:05-CV-1273

JOHN BURGE, Superintendent; MARK BRADT,  
Deputy Superintendent; WILLIAM J. MARTENS,  
Sgt.; E. RIZZO, Correctional Officer; PORTEN,  
Correctional Officer; JOHN DOE, 1, Correctional  
Officer; T. CHRISTOPHER, Sgt.; SHARPES,  
Nurse; STATON, Correctional Officer; JOHN  
DOE 2, Correctional Officer; JOHN DOE, 3,  
Correctional Officer; JANE DOE, X-Ray  
Technician; AHSAN SAMINA, Doctor; JOHN  
DOE # 4, Nurse; # 5 JOHN DOE, Sgt.; # 6  
JOHN DOE, Correctional Officer; # 7 JOHN  
DOE, Correctional Officer; DOCTOR KOOL;  
and McKEEN, Correctional Officer,

Defendants.  
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APPEARANCES:

OF COUNSEL:

HECTOR MATOS, JR.  
Plaintiff, pro Se  
97-A-0832  
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Bronx, NY 10463

HON. ANDREW M. CUOMO  
Attorney General of the  
State of New York  
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Department of Law  
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Albany, NY 12224-0341

DAVID L. COCHRAN, ESQ.  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff, Hector Matos, Jr., brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 22, 2007, the Honorable David R. Homer, United States Magistrate Judge, recommended that defendants' motion to dismiss the first cause of action be denied. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Homer, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

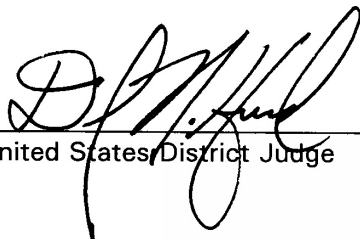
ORDERED that

1. Defendants John Burge, Mark Bradt, and William J. Martens' motion to dismiss the first cause of action is DENIED; and

2. Defendants Burge, Bradt, and Martens shall file and serve an answer to the complaint on or before October 25, 2007.

IT IS SO ORDERED.

Dated: October 10, 2007  
Utica, New York.

  
United States District Judge